STATEMENT BY

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BEFORE THE

HOUSE WAYS AND MEANS

SUBCOMMITTEE ON SOCIAL SECURITY

ON

SECURING THE FUTURE OF

THE SOCIAL SECURITY DISABILITY INSURANCE PROGRAM

Hearing on March 20, 2012

TESTIMONY

Statement of Witold Skwierczynski, President
AFGE National Council of SSA Field Operation Locals, AFL-CIO
Baltimore, MD

Chairman Johnson, Ranking Member Becerra, and members of the Social Security Subcommittee, I respectfully submit this statement on *Securing the Future of the Social Security Disability Insurance Program*. As President of the National Council of SSA Field Operations Locals, I speak on behalf of approximately 31,000 Social Security Administration (SSA) employees in over 1300 facilities. These employees work in Field Offices, Teleservice Centers, and Social Security Card Centers throughout the country where retirement, survivor and disability benefit applications, Supplemental Security Income (SSI) applications and appeal requests, and Social Security card applications are received, processed, and reviewed.

SSA employees are dedicated to providing the highest quality of service to the public in a compassionate manner. AFGE represents employees who are committed to serving communities in the face of a significant increase of work and insufficient field staff to process such work.

The primary message AFGE wants to convey to you today is that without sufficient funding to carry out Social Security programs, backlogs will grow, public service will deteriorate and mismanagement of the programs will inevitably occur, as Administrators look for ways to satisfy Congressional and public criticism.

For example-

> In the FY13 budget, the Commissioner emphasizes the resources that he has shifted to the hearing process, which he believes will reduce the backlogs and processing time for the hearing cases. However, if you look closer[1], you will see that reductions in processing time for hearings decisions is at the expense of the initial claims and reconsideration process, resulting in an increase in the overall time to process disability claims from the first application to the final hearing decision. Currently, hearings backlogs continue to grow and now exceed 820,000, while other disability workloads, such as initial disability claims, reconsiderations and CDRs, exceed 1 million cases.
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> In the Budget Control Act of 2011, Congress established budgetary mandates for SSA regarding its integrity workloads (i.e. Supplemental Security Income (SSI) redeterminations and Continuing Disability Reviews (CDRs). However, after close attention and interpretation of the legislation, it was determined SSA will not receive additional funding to address these workloads, but is required to spend the amount specified for each year performing these workloads. This will result in great attention given to SSI Redeterminations and CRDS, but at the expense of all other workloads of the Social Security Administration. This will be a managing nightmare for any agency administrator!

At some point in time, Congress lost its way with regards to the funding of the Social Security programs. The Social Security Act of 1935 authorized, for each of its programs, "a sum sufficient to carry out the purposes of this title." This language insured that there would always be sufficient funding to operate the Social Security programs and that all moneys spent to administer the programs would be from the Social Security Trust Fund. However, over the years, the funding to administer Social Security's programs became tangled in the appropriation process and forced Social Security to compete with the many important and valuable programs under the Appropriation Subcommittee of Labor, HHS, Education and related Agencies.

[1] Social Security Administration, Justification of Estimates For Appropriation Committees, Fiscal Year 2013, Table 11-Selected Performance Measures.

SSA faces unprecedented service demands based on the aging of the workforce and the impact of the recession. Too many applicants lose their life savings, their health insurance, their homes, and even their families and their lives, while they wait years for a final administrative decision. Disabled individuals who paid for disability insurance protection throughout their working lives deserve much better service than they are now receiving. The loss of more than 7000 Full Time Equivalent (FTE) positions in FY 11 and FY 12, and the threat of sequestration in FY13, will place many families in greater jeopardy.

SSA must be authorized enough funding to make disability decisions in a timely manner and to carry out other critical workloads. AFGE strongly urges the Leadership of this Subcommittee to introduce the necessary legislation to all of Congress, to separate SSA's LAE budget authority from the Section 302(a) and (b) allocations for discretionary spending, while maintaining necessary Congressional oversight. The size of the SSA's LAE is driven by the number of administrative functions it conducts to serve beneficiaries and applicants. Congress should remove SSA's administrative functions from the discretionary budget, which supports other important and vital programs.

Disability

AFGE Continues to support the Federalization of the Disability Determination Services (DDS).

DDSs are in each of the 50 States plus the District of Columbia and Puerto Rico.

SSA reimburses the DDS for 100 percent of allowable expenditures up to approved funding authorizations. In FY 2012, SSA will spend about $2.216 billion to fund the State DDS operations - $149,477 per DDS employee. About 14,800 DDS employees are expected to process 3.1 million disability medical decisions nationwide.

However, in 2011, a majority of States instituted furloughs for State employees due to State budget deficits. Many of the State furloughs included DDS staff. Additionally, some States have implemented changes in hiring practices which may also affect the disability claims processing in the DDSs. AFGE strongly believes that these furloughs are a sign of the failure of the current bifurcated federal-state system to provide a quality disability decision product.

The Social Security Act and Federal regulations give SSA limited control over the State DDSs, although the Agency fully funds them. However, federal law allows the Social Security Administration to federalize DDS employees if a state "substantially fails" to live up to its responsibilities to process claims.

For more than 10 years, AFGE has continued to raise concerns about the inconsistency in medical decisions by the State DDSs, and has also called for the federalization of the system. SSA's approach to disability fails to address the problems and inadequacies of the State Disability Determination Services (DDS). AFGE strongly believes that if problems with inconsistent decisions at the initial claims level are addressed, appeals will diminish. Disability claimants deserve consistent initial claim and reconsideration decisions, and payments as soon as possible in the claims process.

Unfortunately, the chances for a claimant to be approved at the initial level have a lot to do with where they live and their income, rather than the nature of their disability. That's inherent in the system. Each state has different criteria for hiring Disability Examiners. Each state provides them with different pay and benefit packages. Some are unionized, while others are unorganized. Each state provides different training to their employees. Employee retention rates vary dramatically from state to state. In effect, there are 50 different disability programs when there should be one.

For example, State Agency Operation's records indicate that those who can obtain medical treatment early and often have a better chance of being approved for benefits than those who have limited income or resources

and poor access to treatment. Nationwide, those applying for Social Security disability have a much greater chance of being approved than those who only apply for the Supplement Security Income (SSI) program that serves the low income population.

Current reports reflect that 60 percent of Social Security disability claims for benefits were being approved in the Washington DDSs, while just 32.8 percent of those who filed for benefits were being approved in the Tennessee DDS. New Hampshire approves the most initial SSI only disability cases – 51.7 percent. However, residents of Mississippi are approved just 22.4 percent of the time by the DDS in their state. The concurrent (Social Security/SSI) claim disability process also shows inexplicable variable allowance rates depending on the state of residence. Allowance rates are low in every state. In the states of Vermont, Washington, and Wyoming, the allowance rates were 41 percent. Only 17 percent of those filing concurrent disability claims were approved in the state of Tennessee and North Carolina. There is no evidence to show that residents of some states are twice as susceptible to becoming disabled as residents in other states. Obviously, different state initial claims approval rates have more to do with the bifurcated system than the health of residents of these states. Claimants are entitled to consistent decisions regardless of their state of residence or whether they are filing for Social Security or SSI disability benefits in our federal programs.

Updated February , 2012

State DDS	T2 Initial		T16 Initial		Concurrent Initial	
DDS – State Disability Determination Service	**Allow %**	**Deny %**	**Allow %**	**Deny %**	**Allow %**	**Deny %**
National Average	**43.2**	**56.8**	**32.7**	**67.3**	**33.3**	**66.7**
Boston Region	**48.4**	**51.6**	**38.5**	**61.5**	**26.1**	**73.9**
Connecticut	42.0	58.0	30.4	69.6	18.5	81.5
Maine	42.8	57.2	34.1	65.9	32.7	67.3
Massachusetts	51.8	48.2	42.8	57.2	29.5	70.5
New Hampshire	57.5	42.5	51.7	48.3	37.8	62.2
Rhode Island	45.2	54.8	30.4	69.6	22.2	77.8
Vermont	52.4	47.6	45.1	54.9	41.5	58.5
New York Region	**56.4**	**43.6**	**38.5**	**61.5**	**29.2**	**70.8**
New Jersey	57.8	42.2	40.3	59.7	32.7	67.3
New York	51.6	48.4	37.9	62.1	27.9	72.1
Puerto Rico	66.1	33.9	N/A	N/A	N/A	N/A
Philadelphia Region	**44.0**	**56.0**	**32.7**	**67.3**	**22.5**	**77.5**
Delaware	43.6	56.4	31.1	69.9	24.5	75.5
Maryland	47.2	52.8	30.5	69.5	23.1	76.9
Pennsylvania	45.3	54.7	34.1	65.9	21.3	78.7
Virginia	43.3	56.7	34.2	65.8	25.9	74.1
Washington DC	45.3	54.7	43.6	56.4	33.6	66.4
West Virginia	37.5	62.5	24.8	75.2	26.9	73.1
Atlanta Region	**35.8**	**64.2**	**27.3**	**72.7**	**19.9**	**80.1**
Alabama	41.4	58.6	26.7	73.3	21.3	78.7
Florida	36.6	63.4	34.4	68.6	22.1	77.9
Georgia	34.5	65.5	26.4	73.6	20.6	79.4
Kentucky	35.8	64.2	27.3	72.7	17.4	82.6
Mississippi	35.3	64.7	22.4	77.6	19.8	80.2

North Carolina	34.1	65.9	26.3	73.7	17.3	82.7
South Carolina	36.3	63.7	25.8	74.2	21.5	78.5
Tennessee	32.8	67.2	24.3	75.7	17.3	82.7
Chicago Region	**43.3**	**56.7**	**29.1**	**70.9**	**22.4**	**77.6**
Illinois	41.4	58.6	28.3	71.7	23.2	76.8
Indiana	41.5	58.5	27.5	72.5	22.5	77.5
Michigan	44.0	56.0	59.9	70.1	22.3	77.7
Minnesota	44.3	55.7	33.8	66.2	21.1	78.9
Ohio	44.2	55.8	27.2	72.8	21.9	78.1
Wisconsin	45.7	54.3	33.7	66.3	23.6	76.4
Dallas Region	**42.5**	**57.5**	**35.9**	**64.1**	**26.9**	**73.1**
Arkansas	42.8	57.2	33.4	66.6	23.9	76.1
Louisiana	46.7	53.3	31.6	68.4	27.3	72.7
New Mexico	37.0	63.0	64.7	65.3	21.7	78.3
Oklahoma	36.9	63.1	31.5	68.5	20.9	79.1
Texas	44.3	55.7	39.2	60.8	29.6	70.4
Kansas City Region	**47.1**	**52.9**	**32.3**	**67.7**	**22.9**	**77.1**
Iowa	42.7	57.3	31.7	68.3	20.7	79.3
Kansas	48.3	51.7	39.5	60.5	24.1	75.9
Missouri	48.3	51.7	29.9	70.1	23.2	76.8
Nebraska	47.9	52.1	38.1	61.9	23.6	76.4
Denver Region	**46.5**	**53.5**	**51.3**	**58.7**	**26.3**	**73.7**
Colorado	43.2	56.8	38.1	61.9	24.6	75.4
Montana	49.1	50.9	40.2	59.8	27.1	72.9
North Dakota	52.3	47.7	44.4	55.6	29.3	70.7
South Dakota	54.1	45.9	40.6	59.4	26.9	73.1
Utah	45.7	54.3	48.6	51.4	24.3	74.7
Wyoming	60.2	39.8	49.7	50.3	41.1	58.9
San Francisco Region	**40.6**	**59.4**	**36.9**	**63.1**	**24.3**	**75.7**
Arizona	33.1	66.9	32.3	67.7	20.7	79.3
California	41.7	58.3	37.3	62.7	24.3	75.7
Hawaii	45.1	54.9	45.0	55.0	30.2	69.8
Nevada	42.6	57.4	38.5	61.5	28.6	71.4
Seattle Region	**45.6**	**54.4**	**39.9**	**60.1**	**25.1**	**74.9**
Alaska	43.8	46.2	54.5	45.5	36.3	63.7
Idaho	39.8	60.2	37.3	62.7	21.1	78.9
Oregon	43.4	56.6	39.7	60.3	22.5	77.5
Washington	60.2	39.8	49.7	50.3	41.1	58.9

According to the Government Accountability Office (GAO), a majority of DDS's do not conduct long-term, comprehensive workforce planning, which would incorporate key strategies for recruiting, retaining, training and otherwise developing a workforce capable of meeting long-term goals. The State DDS's lack uniform minimum qualifications for Disability Examiners (DE's), have high turnover rates for employees, and do not provide ongoing training for DE's.

AFGE is convinced that SSA is not willing or able to correct these problems. AFGE has expressed these concerns to the Subcommittee for several years, and has seen little or no improvement with the State DDS situation. The State DDSs use different disability decision-making procedures than decision-makers at the hearing levels. This has not been addressed by this Administration. It is a key problem that must be reconciled in order to reform the disability system. AFGE strongly believes that the only way to resolve the problems that plague the State DDS' is to federalize them. ***This will bring consistency to the initial claims decisions in the same way that the Supplemental Security Income program that was established in 1974 created a uniform system of benefits for the low income blind, disabled and aged population.***

As AFGE has emphasized in previous testimony before the House Ways and Means Social Security Subcommittee, the Disability Claims Manager (DCM) pilot (another SSA initiative) proved to be highly successful in addressing many problems in the disability program. DCMs were responsible for making decisions about the non-medical factors of entitlement, as well as the medical decisions for initial disability benefit claims. The Lewin and PEM Associates performed an evaluation of the DCM, which was performed between November 1999 and November 2000. Lewin issued its findings in June 2001. According to Lewin, processing time was significantly better than the bifurcated process. In fact, the DCM processing time of 62 days was just over half of SSA's initial disability claim processing time goal of 120 days. Lewin also found that customer service improved dramatically. Claimants expressed record high satisfaction rates with the DCM process, even when claims were disallowed. The public preferred a process which allowed them to interact with the decision maker. Currently, the only interaction with the disability decision maker occurs at the hearing level, when the Administrative Law Judge (ALJ) conducts the hearing. Observation of the impact of the alleged disabling condition and evaluation of the credibility of the claimant is a prime reason for the high percentage of reversals at the hearing level. If the system was reformed so that claimants could interact with decision makers at all levels, it would result in improvements in the initial claims process, and reduce the number of hearings that are filed.

The DCM was a positive step in ensuring the public that consistent and equitable disability decisions were made by the Agency. Unfortunately, despite the positive DCM experience, SSA terminated the pilot. Although SSA contended that the DCM would cost more than the current process, the pilot was terminated before valid statistical data could be compiled regarding full program costs. Cost no longer appears to be a barrier to improving the disability process as evidenced by the extraordinary expenditure of administrative expenses to reduce the processing time of disability hearings.

It appears that the primary reason SSA terminated the DCM pilot was due to resistance from the States. Such resistance certainly was not based on a poor pilot result. Instead, the decision appears to have been based on political considerations and the fear of losing work. The concerns of the states are understandable in view of their unacceptably poor performance regarding decision consistency from state to state, and their poor processing time in comparison to the DCM. However, the only real criteria should be the level of service that is provided to the claimant. Using customer service as a measure, the DCM exceeded State DDS performance in virtually every category.

AFGE recommended to Commissioner Astrue that he reconsider the Agency's decision to terminate the DCM pilot, and implement the position of the DCM at SSA as soon as possible. The Commissioner has not acted on AFGE's recommendation. The Union is willing to work with the Commissioner in an incremental approach to improving the disability process. We understand there will need to be changes in policy, procedures, and institutional arrangements, as well as funding to implement the DCM. However, we feel that federalizing the entire disability process is key to improving disability claims processing and correcting the current appellate nightmare.

Legislative amendments to the Social Security Act would be necessary to allow SSA workers to make disability decisions. However, the crisis in the disability program requires immediate and long-term changes. When trained to make medical decisions, SSA employees can provide immediate relief to backlogged state Disability Determination agencies, and provide faster and better service to the public by serving as a single point of contact. The pilot demonstrated that the public likes the DCM, employees enthusiastically support it,

employees are capable of mastering all aspects of the claims process, and that it provides substantially better service than the current bifurcated disability process.

Ticket to Work

AFGE has been and continues to be a proponent of the "Ticket to Work and Work Incentive Improvement Act of 1999." AFGE has worked with dedicated SSA employees, who were charged with implementing the legislation. It became apparent from the very beginning that the Agency was not prepared to take on this massive program. Decisions were made to contract out the most vital element of the program - the Program Manager. Some said the decision was financial, some said this was an interpretation of the intent of the law. Nonetheless, it appeared to be the beginning of a new bureaucracy. Rather than have an agency accountable for its failures, we now have a "program" entirely administered by unaccountable 3rd party contractors.

Congress looked at Ticket to Work legislation to resolve many problems, but primarily to correct

- the failure of SSA to accurately and consistently explain work incentives to the disabled community;
- the failure of State Rehabilitation programs; and
- the resistance of disabled recipients to attempt rehabilitation and/or return to work.

It has now been more than 10 years and it appears that we are no closer to resolving the issues that plagued the agency and now plague the Ticket to Work program. The findings of the GAO[2] report indicate that the initial concerns still remain, but there is less accountability than ever.

There appears to be an inability to provide consistent and correct information about work incentives whether you work for SSA or its Program Manager. This is most likely caused by the complexity of the work incentives. If it's difficult to explain, it's more difficult for the disabled recipient to understand. If the recipient becomes confused and calls back and receives different information, the resistance to attempt work should be understandable.

Through regulations, SSA has grown the bureaucracy by unnecessarily bifurcating the responsibilities of the Program Manager. In spite of the lack of accountability and oversight provided to the Employment Networks, the original contractor, Maximus was granted another new contract as one of the Program Managers. The Agency is rewarding Maximus for failure to achieve their goal.

Additionally, SSA's Office of the Inspector General (OIG) reported its concerns in August 2011[3] that SSA awarded approximately $93 million in grant funds to 103 work incentive and assistance (WIPA) grantees, yet the Agency was unable to determine how many beneficiaries actually received WIPA services during the period of review.

AFGE ***strongly*** recommends that the Subcommittee hold hearings on the challenges of successfully rehabilitating and encouraging the disabled to attempt work. AFGE would hope that such hearings will allow for discussion of simplifying the work incentives and returning major aspects of the Ticket to Work program back to SSA.

iClaims

AFGE has conducted its third annual survey of SSA employees regarding their experiences with the iClaims system. The survey results reveal continuing flaws in the program. Consistent with previous surveys, employees confirm that unsuspecting applicants are at great risk of disadvantaging themselves. Applicants can easily lose thousands of dollars in benefits! Those surveyed were SSA employees who assist people who

[2] GAO-11-828T Social Security Disability, Participation in the Ticket to Work Program has Increased, but More Oversight Needed.
[3] OIG/ SSA, *Work Incentive Planning and Assistance Project*, August 12, 2011

are elderly, disabled, uneducated, poor and homeless. SSA has invested millions of dollars to train each employee to obtain information that will meet all requirements of the law. However, the agency continues to give Congress the impression that someone without training can be equally effective in determining what benefits to apply for, and when to file for them, without the assistance of trained SSA employees.

This is simply **not** the case.

- More than half of the employees surveyed reported backlogs of iClaims.
- 71% reported that they are not given adequate time to re-contact iClaim applicants when necessary.

Regarding retirement claims:

- Only **4%** reported retirement iClaims do not require re-contacts to correct problems with the application and/or incomplete ***or*** incorrect wage information.
- Only **6%** reported retirement iClaims do not require re-contacts due to a Month of Election response that would be disadvantageous, or because of incomplete marriage information.
- Only **8%** reported retirement iClaims do not require re-contacts due to incomplete information regarding children or military service.
- 89% reported that the public does not have the knowledge to ask about break-even calculations to determine the best Month of Election without prompting from a trained CR.

Regarding disability claims:

- Only **7%** reported disability iClaim applicants do not require re-contacts to correct alleged dates of disability onset.
- Only **5%** reported disability iClaim applicants do not require re-contacts due to incomplete medical information
- **82%** reported that a minimum of 2 follow-ups are required to re-contact the applicant because of incomplete or incorrect information.
- **71%** reported that re-contacts require a minimum of 30 minutes.

Other Issues:

- **88%** reported ongoing problems with 3rd Party applications.
- Only **3 %** reported that 3rd Party claims are submitted timely.
- **54%** reported a loss of benefits caused by 3rd Party applications.
- **64%** reported post-claim contacts are required regarding Medicare Part B entitlement, after applicants erroneously refuse to apply for it on the initial application.

Since the implementation of iClaims, iClaims applications have been reviewed and corrected by trained SSA employees before payments were authorized. Unfortunately, SSA continues to make changes in historic policy regarding critical factors such as Month of Election and Questionable Retirement, while expecting employees to ignore problems with these issues. Many employees feel obligated to fully assist applicants in spite of changed policies, in order to protect applicants and ensure that they receive the benefits they are due.

SSA refuses to perform audits on the internet claims at the point the applicant submits them, prior to any employee involvement. AFGE is convinced that such an audit is necessary. Last year, SSA lost more than 4000 employees due to budget cuts. The vast majority of staffing losses were Field Office employees. This year, SSA may be facing another hiring freeze, which would result in another 4100 jobs lost. With fewer and fewer employees to meet the public's demands, AFGE is concerned that Commissioner Astrue will implement

his final phase of the iClaims process, which would automate adjudication of applications, and eliminate all SSA employee involvement.

AFGE strongly urges Congress to require SSA to conduct a thorough audit on a statistically valid sample of submitted iClaims, ***prior to*** any handoff to a trained SSA employee for correction and adjudication.

AFGE strongly urges Congress to direct SSA to cease implementation of any and all policy changes or application "simplification" that will result in, cause, or allow incorrect benefit payments.

AFGE strongly urges Congress to request authorizing committees to hold hearings on the effects of the Internet Claims process on SSA workloads and beneficiaries, and invite the employees' AFGE representatives to testify.

In Conclusion

The threat of sequestration would be detrimental to the Agency, its employees and the public that relies on its services. SSA officials have informed AFGE that they have not submitted a sequestration budget to OMB in the event sequestration is necessary. However, SSA officials explained that funding below the current year's funding could result in one (1) furlough day for every $25 million cut. The result could be as severe as 41 furlough days per employee.

Unfortunately, there will always be conflicting budget priorities within SSA and throughout the Federal government. However, both workers and employers contribute to the Social Security system and are entitled to receive high quality service. It is entirely appropriate that spending for the administration of SSA programs be set at a level that fits the needs of Social Security's contributors and beneficiaries, rather than an arbitrary level that fits within the current political process.

In 2000, then Chairman Shaw and Rep. Benjamin Cardin reintroduced the Social Security Preparedness Act of 2000 (formerly H.R.5447), a bipartisan bill to prepare Social Security for the retiring baby boomers. AFGE strongly encourages this Subcommittee to reconsider introducing legislation that will provide SSA with the appropriate funding level to process all claims and all post-entitlement workloads timely.

Taking SSA's administrative expenses "off-budget" has vast support, not only from AFGE and SSA workers, but from senior and disability advocacy organizations. This would include AARP, the National Committee to Preserve Social Security and Medicare, the Alliance for Retired Americans, the Consortium for Citizens with Disabilities, and the Social Security Disability Coalition.

AFGE believes that by taking the administrative costs OFF-BUDGET with the rest of the Social Security program, Congress will still be able to provide strict oversight to ensure the administrative resources are being spent efficiently.

As we always have in the past, AFGE is committed to serve as not only the employees' advocate, but also as a watchdog for clients, taxpayers, and for their elected representatives.